

COPY

in 2635

*Opinion*

166-30

May 27, 1958

NEW HAMPSHIRE LAW LIBRARY

James J. Barry, Commissioner  
Public Welfare Department  
State House Annex  
Concord, New Hampshire

OCT 01 1998

CONCORD, N.H.

Re: Minnie Back, Pending OAA

Dear Mr. Barry:

This is in reply to your letter of May 14, 1958 in which you requested an opinion by this office as to the settlement of the above named OAA applicant. As a result of a telephone conference with Assistant Commissioner Thompson you provided additional factual information relative to the residence record of the applicant in a memorandum to this office dated May 21, 1958.

In your letter of May 21, 1958 you advise that the applicant has resided in the Town of Northwood continuously since April 26, 1950, and is presently residing in Northwood. You further advise that Mrs. Back was hospitalized in the York Harbor Hospital, York, Maine in June 1955, and that the bill in the amount of \$129.00 was submitted to the Northwood selectmen in August 1955. I gather from your letter of May 14th that this hospital bill was actually paid by the Town of Northwood.

On the basis of the information contained in your letters, it appears that Mrs. Back gained a settlement in Northwood on April 26, 1955 by virtue of five years continuous domicile there. See RSA 164:1 IX.

Mrs. Back entered the York Harbor Hospital in June 1955, after having acquired a settlement in Northwood. The payment of the hospital bill by the Town of Northwood did not operate to deprive Mrs. Back of her settlement in that town. Your attention is directed to RSA 164:8 which provides that "Any settlement obtained under the provisions hereof shall be lost by any person who has been assisted as a pauper for five consecutive years." (emphasis added) In Opinion of the Justices, 89 N.H. 563, our Court in construing this section had this to say: "The act provides that a settlement shall be lost by relief furnished only when the relief has been given during five consecutive years,

C O P Y

James J. Barry, Commissioner

-2-

5/27/58

and to hold that relief furnished in any one of them produces a loss of settlement would not pay even scant respect to the legislative will."

In brief, Mrs. Back having acquired a settlement in Northwood on April 26, 1955, she would not lose that settlement because of an isolated instance of relief being furnished by the Town of Northwood in June 1955. In order for Mrs. Back to lose her settlement in Northwood she would have to be assisted as a pauper for five consecutive years.

Very truly yours,

GTRJr/m

George T. Ray, Jr.  
Assistant Attorney General